

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Consumer Protection and Enforcement Division  
Transportation Licensing and Analysis Branch**

**RESOLUTION TL-19150  
May 17, 2024**

**DRAFT RESOLUTION**

**RESOLUTION AFFIRMING THE CONSUMER PROTECTION AND ENFORCEMENT  
DIVISION'S DISPOSITION OF WAYMO ADVICE LETTER 0002**

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**SUMMARY**

This Resolution affirms the Consumer Protection and Enforcement Division's (CPED) disposition of Waymo LLC (Waymo) Advice Letter 0002, responsive requests for review from the County of San Mateo (San Mateo), the Los Angeles Department of Transportation (LADOT), the San Francisco County Transportation Authority (SFCTA), and the San Francisco Taxi Workers Alliance (SFTWA). Waymo has complied with the requirements of Decision 20-11-046 (as modified by Decision 21-05-017) by submitting an updated Passenger Safety Plan as a Tier 2 advice letter. The updated Passenger Safety Plan reflects Waymo's expanded Operational Design Domain allowing for deployment of driverless autonomous vehicles in portions of the Los Angeles area and additional portions of the San Francisco Peninsula, as approved by the California Department of Motor Vehicles. CPED properly reviewed and ministerially disposed of the advice letter per the provisions of General Order 96-B, finding that Waymo's Passenger Safety Plan complied with Commission requirements. CPED properly found that protests from the City of South San Francisco (SSF), San Mateo, LADOT, SFCTA, and the SFTWA were not made on valid grounds, and that requests for evidentiary hearings from the SSF, San Mateo, LADOT, and SFTWA were similarly invalid. Neither pending litigation nor pending legislation prevent disposition of Waymo's advice letter, nor is an environmental review required prior to disposition. The Commission finds no legal error in CPED's disposition. Waymo's fared, driverless passenger service authority therefore remains active.

**BACKGROUND**

On January 11, 2024, the California Department of Motor Vehicles (DMV) approved an expanded Operational Design Domain (ODD) for Waymo LLC (Waymo), authorizing Waymo to deploy driverless autonomous vehicles (AVs) in portions of the Los Angeles area

and additional portions of the San Francisco Peninsula. On January 19, 2024, Waymo submitted Waymo-0002, a Tier 2 advice letter seeking Commission approval of its revised Passenger Safety Plan (PSP) in connection with Waymo's expanded ODD. In its advice letter, Waymo sought—through approval of its updated PSP—authorization to expand its ability to collect fares for passenger service using driverless AVs to the areas approved in its updated ODD. Approval of the Tier 2 advice letter would augment Waymo's existing authorization to provide fared, driverless passenger service in San Francisco and portions of San Mateo County, which the Commission granted in August 2023 in Resolution TL-19144.

### *California Regulatory Framework for AVs*

California law distributes regulation of AVs used for fared passenger service across two agencies—the DMV and the Commission. California Vehicle Code Section 38750 tasks the DMV with determining if AVs can be operated on public roads, including any testing, equipment, and performance standards that are necessary to ensure AVs' safe operation. To deploy AVs, the AV manufacturer must apply to the DMV for a Permit to Deploy Autonomous Vehicles on Public Streets.<sup>1</sup> DMV regulations establish the requirements for that application, including that the manufacturer identify the ODD in which the AVs are designed to operate. The DMV reviews the manufacturer's application for completeness (e.g., evidence of insurance, certifications, etc.), analyzes the AVs' safety to operate, and issues a permit only if the DMV has determined that all required information was submitted and the DMV is satisfied the AVs are safe to operate. DMV regulations further require manufacturers submit an amended application prior to implementing certain changes, including proposals to expand the geographic areas where AVs may operate. Manufacturers may not implement these changes without prior approval by the DMV.

The Commission regulates the transportation of passengers for compensation, *i.e.*, fared passenger service. In Rulemaking (R.) 12-12-011, the Commission has addressed requirements for entities that wish to conduct fared passenger service using AVs. In that rulemaking, in Decision (D.) 20-11-046 (as modified by D. 21-05-017) (Deployment Decision), the Commission approved the Autonomous Vehicle Passenger Service Deployment programs.<sup>2</sup> In Deployment, authorized carriers may collect fares for AV passenger service either with a safety driver present in the vehicle for Drivered Deployment

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<sup>1</sup> See, Cal. Code Regs., tit. 13, §§ 227, et. seq.

<sup>2</sup> Decision 20-11-046 is available at

<https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=352185092>.

Decision 21-05-017 is available at

<https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=401288191>.

service or without a safety driver for Driverless Deployment service. Carriers may also offer shared rides.

### *Requirements of the Deployment Decision*

To offer Driverless Deployment service, a Carrier must meet the requirements contained in Ordering Paragraph (OP) 7 of the Deployment Decision, including holding a DMV Permit to Deploy Autonomous Vehicles on Public Streets and maintaining insurance for the AVs. In addition, a Carrier must prepare a Passenger Safety Plan (PSP), and in the PSP, must describe its policies and procedures to minimize risk for all passengers in its driverless vehicles.<sup>3</sup> This includes, at a minimum, how the Carrier will:

- Minimize safety risks to passengers traveling in a ride operated without a driver in the vehicle;
- Minimize safety risks to passengers traveling in a shared, driverless ride, including prevention and response to assaults and harassments (only for Carriers applying to offer shared rides);
- Respond to unsafe scenarios outside and within the vehicle, such as hostile individuals;
- Educate and orient passengers about the technology, experience, and safety procedures;
- Ensure customers can safely identify, enter, and exit the AV they requested;
- Enable passengers to contact the AV service provider during the ride and ensure the passengers receive a timely and complete response;
- Collect, respond to, and retain any passenger comments and complaints; and
- Ensure the safety measures described above are accessible to and apply to all passengers, including those with limited mobility, vision impairments, or other disabilities.

The Deployment Decision established an advice letter process, modeled on the rules of GO 96-B, for Driverless Deployment applications and modifications.<sup>4</sup> Initial applications for Driverless Deployment authority must be submitted as Tier 3 advice letters, served on the relevant transportation-related service lists, and must include a PSP that meets the requirements of OP 7. Comments from stakeholders are accepted on both the advice letter<sup>5</sup> and again on the draft resolution.<sup>6</sup> Tier 3 advice letters are approved by the Commission;

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<sup>3</sup> D.20-11-046 (as modified by D.21-05-017), OP 8.

<sup>4</sup> D.20-11-046 (as modified by D.21-05-017), OP 20.

<sup>5</sup> GO 96-B, General Rule 7.4.

<sup>6</sup> Rules of Practice and Procedure, Rule 14.3.

CPED staff prepare a proposed resolution with the recommended disposition for the Commission's consideration.<sup>7</sup>

The Deployment Decision further requires that carriers who wish to change their service in a way that materially impacts the strategies described in the PSP submit an updated PSP in the form of a Tier 2 advice letter. These Tier 2 advice letters must similarly be served to the relevant transportation-related service lists and must include a PSP that meets the requirements of the Deployment Decision. Anyone may comment on an advice letter by submitting a protest or response.<sup>8</sup> Tier 2 advice letters may be reviewed and ministerially disposed of by Commission staff.<sup>9</sup>

### *Procedural History*

On December 12, 2022, Waymo submitted Advice Letter No. 0001, requesting authorization to participate in the Commission's Driverless Deployment program. The Commission approved Waymo's advice letter in August 2023 via Resolution TL-19144.<sup>10</sup>

On January 19, 2024, Waymo submitted a Tier 2 advice letter requesting approval of its updated PSP in connection with its proposed expanded service to the Los Angeles and San Francisco Peninsula areas. GO 96-B allows anyone to submit a protest or response to an advice letter within 20 days of its submittal. Protests and responses to Waymo's advice letter were due on February 8, 2024.

CPED received 5 protests and 81 responses in support of Waymo's proposed expansion. Responses in support were submitted by 81 organizations or individuals representing various interests, including disability advocates, community organizations, economic development organizations, academics, elected officials, labor representatives, and transportation advocates. The responses generally highlighted the potential safety, accessibility, economic, and environmental benefits of an expansion of Waymo's driverless AV service.

The City of South San Francisco (SSF), the County of San Mateo (San Mateo), the Los Angeles Department of Transportation (LADOT), the San Francisco County Transportation Authority (SFCTA), and the San Francisco Taxi Workers Alliance (SFTWA) each submitted a protest. The protests generally took issue with the advice letter process, the Commission's

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<sup>7</sup> General Order (GO) 96-B, General Rule 7.6.2.

<sup>8</sup> GO 96-B, General Rule 7.4.

<sup>9</sup> GO 96-B, General Rule 7.6.1.

<sup>10</sup> Resolution TL-19144 is available at

<https://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&docid=517102965>.

AV program requirements, local oversight over AVs, and Waymo's engagement with local officials. Several protesters requested evidentiary hearings.

On February 13, 2024, Waymo submitted its reply. In response to the protests, Waymo stated that it followed the requirements of the Deployment Decision and that CPED staff could appropriately dispose of the advice letter. Waymo asserted that none of the protesters stated a valid basis for protest under the rules of GO 96-B nor identified specific issues requiring an evidentiary hearing. Waymo indicated that some arguments raised by the protests fell outside the scope of advice letter review. Finally, Waymo countered arguments by describing its engagement with city-level officials in the Los Angeles and San Francisco Peninsula regions.

CPED evaluated Waymo's advice letter, the protests and responses, and Waymo's reply. CPED ultimately found that Waymo complied with the Deployment Decision and that its updated PSP is complete and reasonable for its planned service. CPED further found that none of the submissions from SSF, San Mateo, LADOT, SFCTA, or SFTWA stated proper grounds for protest per the directives of GO 96-B. Accordingly, CPED staff issued a disposition approving Waymo's advice letter on March 1, 2024. CPED's disposition is included as *Attachment 1* to this resolution.

General Rule 7.6.3 of GO 96-B provides that anyone who protested an advice letter may request the Commission review an Industry Division disposition. The request must be submitted within 10 days after the issuance of the disposition and must describe the specific grounds on which the requester considers the disposition to be unlawful or erroneous. If a request is timely submitted, the Industry Division will prepare a proposed resolution for consideration by the Commission.

On March 11, 2024, San Mateo, LADOT, SFCTA, and SFTWA separately requested that the Commission review CPED's disposition of Waymo's advice letter.

### **REQUESTS FOR REVIEW**

San Mateo contends CPED's disposition was unlawful or erroneous, arguing the advice letter process is insufficient to consider Waymo's expansion. San Mateo argues evidentiary hearings are needed to address material disputed facts about the safety of Waymo's AVs and their environmental impacts. San Mateo asserts that approving the advice letter without environmental review violated the California Environmental Quality Act (CEQA). By not adopting "additional public safety protections," San Mateo asserts the disposition is an abuse of the Commission's discretion and a violation of the Commission's statutory mandate to promote carrier and public safety. San Mateo argues the approval was unjust

and unreasonable due to pending litigation in the California Supreme Court<sup>11</sup> and Court of Appeal<sup>12</sup> related to the Commission's prior approval of advice letter Waymo-0001. Lastly, San Mateo argues the disposition was not a ministerial act and that San Mateo's protests were made on proper grounds.

LADOT's request for review includes similar assertions. LADOT argues that the advice letter process is not an appropriate vehicle for review of Waymo's request, asserting that Waymo's request would create a "substantial change in the transportation landscape." LADOT further argued that CPED should have delayed its decision on the advice letter due to pending litigation and pending legislation relating to AVs (Senate Bill (SB) 915, Assembly Bill (AB) 1777, and AB 3061). LADOT also notes operational issues, standardization practices, and data access issues that it has brought to the Commission's attention and that have not been resolved.

In its request for Commission review, SFCTA reiterates previous arguments by reference: SFCTA's arguments made in its protest and prior filings, arguments made by LADOT in its protest and request for review, and SFCTA's arguments from pending writs before the California Court of Appeal and the California Supreme Court related to the Commission's alleged failure to adequately consider risks to public safety under the Charter Party Carriers Act and to conduct environmental review as required by CEQA. SFCTA argues that the relief requested in the advice letter would violate a statute,<sup>13</sup> as identified in previous filings and writs. Further, SFCTA disagrees with CPED's approval of the advice letter at the staff level and takes issue with the Commission's reliance on the Deployment Decision.

SFTWA asserts the disposition did not properly address SFTWA's protest. SFTWA restates its argument that the PSP does not adequately address interactions with first responders, and that CPED's approval was not ministerial because determining whether the PSP adequately protects first responders and the public requires judgment and discretion and thus the Commission's involvement. SFTWA further argues evidentiary hearings are needed to address the adequacy of Waymo's PSP relative to Waymo's interactions with first responders, and to address an alleged factual dispute that exists over whether the advice letter describes an expansion of service or constitutes a new service. SFTWA reiterates its protest argument that the relief requested in the advice letter is unjust, unreasonable, or discriminatory due to "numerous incidents" involving Waymo AVs that have come to light

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<sup>11</sup> City and County of San Francisco v. Public Utilities Commission of the State of California, Case No. S283446, California Supreme Court

<sup>12</sup> City and County of San Francisco v. Public Utilities Commission of the State of California, Case No. A169262, California Court of Appeal First Appellate District

<sup>13</sup> Public Utilities Code § 5351; California Environmental Quality Act.

since issuance of the Deployment Decision. SFTWA additionally reiterates its protest argument that Waymo did not provide a proper cover sheet with its advice letter and therefore is not valid.

## **DISCUSSION**

The advice letter at issue here—Waymo Advice Letter No. 0002—was submitted per the Deployment Decision. In the Deployment Decision, the Commission established that the advice letter process should be modeled on the rules of GO 96-B.

CPED approved Waymo Advice Letter No. 0002. Rule 7.6.3 of GO 96-B allows a person or entity who protested an advice letter to request the Commission review an Industry Division disposition of an advice letter. Four entities—San Mateo, LADOT, SFCTA, and SFTWA—have requested Commission review of CPED’s approval of Waymo Advice Letter No. 0002.

Per Rule 7.6.3, any request for Commission review of an advice letter “shall set forth specifically the grounds on which the requester considers the disposition to be unlawful or erroneous.” Accordingly, the issue before the Commission in this resolution is whether CPED acted unlawfully or erred in its review and disposition of Waymo’s advice letter.

For the reasons set forth below, we find no legal error. Staff appropriately issued its disposition according to the Commission’s directives set forth in the ordering paragraphs of the Deployment Decision.

1. *Waymo’s Advice Letter No. 0002 was properly submitted as Tier 2 and reviewed by staff.*

GO 96-B permits an entity to request relief via an advice letter when it has been authorized by statute or Commission order to do so.<sup>14</sup> Here, Ordering Paragraph 20 of the Deployment Decision expressly authorized Waymo to file a Tier 2 advice letter. This order requires submission of an updated PSP as a Tier 2 advice letter when carriers wish to make material changes to their operations under an existing Driverless Deployment authorization. Waymo’s current authorization permits its AVs to operate within the City of San Francisco. Waymo’s Tier 2 advice letter request for relief is a “material change in operations” as it proposes to expand AV service in the Los Angeles and San Francisco Peninsula areas. As such, Waymo followed the correct procedural vehicle designated by the Commission to obtain approval for this expanded service.

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<sup>14</sup> GO 96-B, General Rule 5.1.(1).

In reviewing a Tier 2 advice letter, Staff evaluates whether the proposed relief has been authorized by relevant statutes or Commission orders cited in the letter.<sup>15</sup> Rule 7.6.1 of GO 96-B states that Industry Division disposition of a Tier 2 advice letter “is appropriate where statutes or Commission orders have required the action proposed in the advice letter, or have authorized the action with sufficient specificity, that the Industry Division need only determine as a technical matter whether the proposed action is within the scope of what has already been authorized by statutes or Commission orders.” Technical complexity of the subject matter at hand does not preclude staff disposition: “An advice letter will be subject to Industry Division disposition even though its subject matter is technically complex, so long as a technically qualified person could determine objectively whether the proposed action has been authorized by the statutes or Commission orders cited in the advice letter.”<sup>16</sup>

As the Industry Division responsible for review of Waymo’s Tier 2 advice letter, CPED’s responsibility is to determine whether Waymo’s updated PSP complied with the Deployment Decision requirements. Other issues—such as whether to modify the requirements for fared AV passenger service expansion—were appropriately found in CPED’s disposition to be outside the scope of Waymo’s advice letter and CPED’s review. As CPED noted, policy issues such as these should be raised in the Commission’s rulemaking process, which is the proper venue for development of regulations that will impact all current and future participants in the Commission’s AV programs.<sup>17</sup>

SFTWA also claims Waymo failed to comply with GO 96-B procedures, arguing both in its initial protest and request for review of CPED’s disposition that Waymo’s advice letter must be rejected because Waymo did not provide a cover sheet. We reject this argument as a basis to overturn the disposition. Although GO 96-B describes requirements for a cover sheet, it states that staff *may* reject advice letters without one.<sup>18</sup> While GO 96-B does not contain transportation industry-specific or AV-specific advice letter rules, and while we expect advice letter filers to consistently submit a cover sheet, in this case we note that Waymo’s advice letter contained the relevant items described in General Rule 4.6 of GO 96-B. It does not appear that Waymo’s oversight in failing to include a cover letter presented any difficulties to staff or other stakeholders in reviewing the advice letter—including SFTWA, as evidenced by SFTWA’s timely submissions of its protest and request for Commission review.

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<sup>15</sup> GO 96-B, General Rule 7.6.1.

<sup>16</sup> *Id.*

<sup>17</sup> CPED Disposition, p. 8.

<sup>18</sup> GO 96-B, General Rule 4.6.

2. *CPED evaluated Waymo's updated PSP and appropriately found that it is in compliance with the requirements of the Deployment Decision.*

As provided by Rule 7.6.1 of GO 96-B, CPED's review of a Tier 2 advice letter "need only determine as a technical matter whether the proposed action is within the scope of what has already been authorized by statutes or Commission orders." Here, the Deployment Decision provides "sufficient specificity" in its ordering paragraphs when it granted CPED authority to act on a carrier's Tier 2 advice letter request to approve a "material change in operations." In this case, the Deployment Decision requires that carriers prepare a PSP describing the strategies they will use to minimize risk for all passengers in driverless rides, and, at a minimum, address the eight specific requirements described in Ordering Paragraph 8.

CPED's review of Waymo's updated PSP here is straightforward — Res. TL-19144 already held that Waymo's original PSP satisfied the requirements of the Deployment Decision and reasonably addressed its proposal collect fares for its driverless AV passenger service in San Francisco. CPED therefore evaluated Waymo's updated PSP in the context of Waymo's proposed service expansion in the Los Angeles and San Francisco Peninsula areas relative to the requirements of the Deployment Decision. In its analysis, CPED found that Waymo fulfilled its obligations under the Deployment Decision and the updated PSP reasonably addresses its proposed service expansion.<sup>19</sup> As CPED's review and disposition is in line with authority granted by the Commission, we find no grounds for legal error.

SFTWA took issue specifically with Waymo's PSP and the PSP requirements themselves, arguing that both were deficient in not adequately addressing interactions with first responders. Nothing in the Deployment Decision specifically requires carriers to address interactions with first responders. First responder interaction issues may be more appropriately addressed by the DMV, as the lead agency responsible over vehicle safety and Law Enforcement Interaction Plan requirements, while the Commission's authority extends to passenger service. Modifications to the PSP requirements, which were set by a Commission decision, are outside of the scope of this advice letter process and are properly addressed through the rulemaking process. However, while the Deployment Decision does not require PSPs to address first responder interactions, Waymo's PSP does include discussion of safety as it relates to first responder interactions; for example, CPED's disposition cites Waymo's development of new approaches to avoiding adverse events,

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<sup>19</sup> CPED Disposition of Waymo Advice Letter 0002 at 8.

including coordination with select public safety agencies to avoid active first responder scenes.<sup>20</sup>

3. *CPED evaluated the five submitted protests and appropriately determined that none were made on valid grounds.*

Rule 7.4.2 of GO 96-B describes valid grounds for protest of an advice letter. These include: (1) the utility did not properly serve or give notice of the advice letter; (2) the relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies; (3) the analysis, calculations, or data in the advice letter contain material errors or omissions; (4) the relief requested in the advice letter is pending before the Commission in a formal proceeding; (5) the relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or (6) the relief requested in the advice letter is unjust, unreasonable, or discriminatory, provided that such a protest may not be made where it would require relitigating a prior order of the Commission. Protests may not rely on policy objections where the relief requested in the advice letter follows rules or directions established by statute or Commission order.

We agree with CPED's assessment that none of the protests submitted were made on valid grounds. Protests may not be made that would require relitigating a prior order of the Commission, nor may protests rely on policy objections when the advice letter otherwise follows existing regulations. Objections to the advice letter process itself and to the regulations of the Deployment Decision or statute – including the requirements for PSPs, what AV Program data must be collected, the distribution of regulatory authority across various state or local authorities, and similar issues – are therefore not made on proper grounds. Waymo followed the requirements of the Deployment Decision as they existed at the time of disposition (and remain today). CPED's disposition of Waymo's advice letter was limited only to whether Waymo's updated PSP complied with these requirements, and staff acted within that authority. Requested modifications to the Commission's regulatory framework must be made through the rulemaking process.

4. *CPED evaluated requests for evidentiary hearings and appropriately found that no protester identified specific material disputed facts that would require evidentiary hearings.*

The City of South San Francisco, San Mateo, LADOT, and SFTWA each requested the Commission hold evidentiary hearings. San Mateo and SFTWA reiterated in their requests for review that evidentiary hearings are required to address factual disputes related to the

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<sup>20</sup> CPED Disposition of Waymo Advice Letter 0002 at 8.

safety of Waymo AVs including interactions with first responders, environmental impacts, and whether Waymo's request constituted an expanded or new service.

Rule 7.4.1 of GO 96-B requires that any protestant requesting the Commission hold an evidentiary hearing explain the need for such a hearing by identifying material disputed facts and stating why a hearing must be held. CPED found that no protester identified material disputed facts that would necessitate a hearing, and we agree.

The only issue before CPED related to Waymo's advice letter was whether Waymo submitted an updated PSP that complied with the Deployment Decision. No protester, either in initial protests or in subsequent requests for Commission review, identified a disputed material fact related to the approval of Waymo's updated PSP. Instead, protestors requested an evidentiary hearing to relitigate issues regarding the regulatory requirements for fared AV passenger service, alleged environmental impacts of fared AV passenger service, and what must be included in PSPs. These general policy considerations are outside the scope of this advice letter review and thus do not represent appropriate grounds to hold an evidentiary hearing.

#### *Other Issues Raised in Requests for Review*

The requests for review raised several other issues not directly related to CPED's disposition of Waymo's advice letter. While none of these arguments demonstrate that staff acted erroneously or unlawfully, we discuss them briefly below.

LADOT and San Mateo cited pending litigation in the California Court of Appeals and California Supreme Court related to Waymo's initial Driverless Deployment approval, arguing that Waymo's most recent advice letter should not be approved while related litigation is outstanding. LADOT further argued that Waymo's advice letter should not be approved due to pending AV-related state legislation. As Waymo's Driverless Deployment authorization remains active and no stay has been issued, there are no other rules or regulations that otherwise prevent the Commission from acting on Waymo's advice letter. CPED's disposition of Waymo's advice letter was appropriate and timely per the regulations of GO 96-B, which require disposition of a Tier 2 advice letter within 150 days of its submission.<sup>21</sup>

San Mateo and SFCTA argue that the Commission must undertake environmental review pursuant to CEQA prior to approval of Waymo's advice letter. The City of San Francisco (including SFCTA) previously argued that environmental review was required prior to

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<sup>21</sup> GO 96-B, General Rule 7.5.2.

approval of Waymo’s initial Driverless Deployment application.<sup>22</sup> The Commission dismissed these arguments in D.23-11-053 denying San Francisco’s application for rehearing of Res. TL-19144,<sup>23</sup> and that analysis applies in this case also.

Environmental review is not required prior to approval of this advice letter. The activities described in this advice letter do not constitute a CEQA project, which is defined as an action that has a potential for resulting in direct physical change or a reasonably foreseeable indirect physical change to the environment.<sup>24</sup> Activities that are not CEQA projects do not require environmental review.<sup>25</sup> Even if fared driverless AV passenger service expansion were determined to constitute a CEQA project, the “passenger service exemption” to environmental review requirements would apply as Waymo operates on road rights-of-way already in use.<sup>26</sup>

Lastly, we note again that AV policy issues must be taken up through the Commission’s rulemaking process and not through a response to an advice letter. Advice letters are a means for regulated entities to request relief without the need to initiate formal proceedings for matters that have already been authorized by statute or Commission order.<sup>27</sup> Advice letters are therefore narrowly tailored to a specific request from a specific regulated entity. Issues such as the advice letter process itself and the requirements of the Deployment Decision including the specifics of the PSP are issues appropriate for the rulemaking process, through which the Commission in coordination with stakeholders develops policies that would apply to all current and future AV program participants.

### ***Conclusion***

Following analysis of CPED’s disposition and the requests for review, we find CPED properly evaluated Waymo’s advice letter for compliance with the Deployment Decision, and agree with CPED’s conclusion that no protest raised any valid grounds to deny Waymo’s requested relief. As CPED’s actions in issuing this disposition were neither

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<sup>22</sup> See, e.g., San Francisco’s Application to Rehear Resolution TL-19144 Approving Authorization for Waymo Autonomous Vehicle Passenger Service Phase I Deployment Program (September 11, 2023). Available at <https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=520511607>.

<sup>23</sup> Decision 23-11-035, Order Modifying Resolution TL-19144 and Denying Rehearing as Modified and Denying Motion for Stay. Available at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M520/K782/520782803.PDF>.

<sup>24</sup> Pub. Resource Code § 21065.

<sup>25</sup> Pub. Resources Code § 21080(d).

<sup>26</sup> Pub. Resources Code § 21080(b)(10).

<sup>27</sup> GO 96-B, General Rule 5.1.

unlawful nor erroneous, we affirm the March 1, 2024 disposition of Waymo's Advice Letter No. 0002.

### **COMMENTS**

Public Utilities Code § 311(g)(1) provides that this resolution must be served on all parties and be subject to at least 30 days public review. Any comments are due within 20 days of the date of its mailing and publication on the Commission's website and in accordance with any instructions accompanying the notice. Public Utilities Code § 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

In compliance with Public Utilities Code § 311(g), a notice shall be emailed on **May 17, 2024**, informing all parties on the R.12-12-011, R.19-02-012, and R.21-11-014 Service Lists of the availability of the Resolution on the Commission's website at <http://www.cpuc.ca.gov/documents/>. The 30-day review and 20-day comment period for the draft of this resolution were neither waived nor reduced. Accordingly, comments on this draft resolution may be submitted no later than 20 days from the mailing date (June 6, 2024). This draft resolution will be placed on the Commission's agenda no earlier than 30 days from today (June 16, 2024). If adopted by the Commission, the final resolution will be posted and available on the Commission's website.

### **FINDINGS**

1. On January 11, 2024, the California Department of Motor Vehicles (DMV) approved an expanded Operational Design Domain (ODD) for Waymo LLC (Waymo), authorizing Waymo to deploy driverless autonomous vehicles (AVs) in portions of the Los Angeles area and additional portions of the San Francisco Peninsula.
2. On January 19, 2024, Waymo submitted Waymo-0002, a Tier 2 advice letter seeking approval of its revised Passenger Safety Plan (PSP) in connection with Waymo's expanded ODD.
3. Waymo's advice letter received 5 timely protests that expressed concerns regarding or otherwise opposed Waymo's advice letter and 81 timely responses in support of Waymo's proposed expansion.
4. Protests were submitted by the City of South San Francisco, the County of San Mateo, the Los Angeles Department of Transportation, the San Francisco County Transportation Authority, and the San Francisco Taxi Workers Alliance.

5. On March 1, 2024, the Consumer Protection and Enforcement Division (CPED) issued a disposition letter approving Waymo's advice letter.
6. CPED found that Waymo complied with the requirements of D.20-11-046 (as modified by D.21-05-017) (Deployment Decision), including submission of a complete PSP reasonable for its planned service.
7. CPED found that none of the protests submitted were made on valid grounds per the directives of General Order 96-B.
8. On March 11, 2024, the County of San Mateo (San Mateo), the Los Angeles Department of Transportation (LADOT), the San Francisco County Transportation Authority (SFCTA), and the San Francisco Taxi Workers Alliance (SFTWA) requested the Commission review CPED's disposition of Waymo's advice letter.
9. San Mateo's request for review argued that CPED's disposition was unlawful or erroneous because the advice letter process was insufficient and prior to approval the Commission should conduct evidentiary hearings, conduct an environmental review pursuant to the California Environmental Quality Act (CEQA), and adopt additional public safety protections. San Mateo further argued that CPED's approval was unjust and unreasonable due to pending litigation regarding the Commission's prior approval of advice letter Waymo-0001, and that CPED's disposition was not ministerial and that San Mateo's earlier protest was made on proper grounds.
10. LADOT's request for review argued that the advice letter process was not appropriate, and that CPED should have delayed its decision on the advice letter due to pending litigation and pending legislative bills related to AVs. LADOT also reiterated operational issues, standardization practices, and data access issues it has brought to the Commission's attention have not been resolved.
11. SFCTA's request for review reiterated previous arguments by reference: SFCTA's arguments made in its protest and prior filings, arguments of LADOT made in its protest and its request for review, and SFCTA's arguments made in pending litigation related to the Commission's obligations under the Charter Party Carriers Act and CEQA. SFCTA argued that approval of the advice letter would violate statute.
12. SFTWA's request for review argued that the PSP did not adequately address interactions with first responders and that CPED's assessment of the PSP was not ministerial. SFTWA further argued that evidentiary hearings are necessary and that the relief requested in the advice letter is unjust, unreasonable, or discriminatory.

SFTWA reiterated its argument that Waymo did not provide a proper cover sheet and its advice letter should therefore have been rejected.

13. General Rule 7.6.3 of General Order (GO) 96-B requires that requests for Commission review of an Industry Division disposition identify the grounds on which the requester considers the disposition to be unlawful or erroneous.
14. Carriers participating in the Commission's Driverless AV Deployment Program must meet the requirements contained in the Deployment Decision.
15. General Rule 7.6.1 of GO 96-B allows for Industry Division disposition of advice letters where statutes or Commission orders have required the action proposed in the advice letter or have authorized the action with sufficient specificity such that the Industry Division need only determine as a technical matter whether the proposed action is within the scope of what has been authorized.
16. The sole issue before CPED in evaluating Waymo's advice letter was whether Waymo complied with the Deployment Decision.
17. Waymo properly submitted its advice letter with a Tier 2 designation and CPED properly reviewed it per the regulations of GO 96-B.
18. Waymo's advice letter contained the relevant information required by General Rule 4.6 of GO 96-B and lack of a cover sheet did not negatively impact timely staff or stakeholder review of Waymo's advice letter.
19. CPED evaluated Waymo's updated PSP and appropriately found that it is in compliance with the requirements of the Deployment Decision.
20. CPED evaluated the 5 submitted protests and appropriately determined that none were made on valid grounds.
21. CPED evaluated requests for evidentiary hearings and appropriately found that no protester identified specific material disputed facts that would require evidentiary hearings.
22. Pending litigation before the California Court of Appeals and California Supreme Court related to Resolution TL-19144 approving Waymo's initial Driverless Deployment authorization does not prevent CPED from disposing of Waymo's advice letter.
23. Pending legislation does not prevent CPED from disposing of Waymo's advice letter.

24. Environmental review pursuant to the CEQA was not required prior to approval of Waymo's advice letter.
25. Expansion of Waymo's fared driverless passenger service to the Los Angeles and San Francisco Peninsula areas does not constitute a CEQA project.
26. Environmental review is not required for CEQA projects that utilize road rights-of-way already in use.
27. AV policy issues such as the sufficiency of the advice letter process or the requirements of the Deployment Decision are outside the scope of the advice letter process and should be addressed through the Commission's rulemaking process.

**THEREFORE, IT IS ORDERED THAT:**

1. The Consumer Protection and Enforcement Division's disposition of Waymo LLC Advice Letter 0002 is affirmed.
2. Waymo LLC's Phase I Driverless Autonomous Vehicles Deployment authorization remains active.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the California Public Utilities Commission at its regular meeting on \_\_\_\_\_. The following Commissioners approved it:

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Rachel Peterson  
Executive Director